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10/539,414	06/17/2005	Othon Kamariotis	36-1908	2360
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NIXON & VANDERHYE, PC			WERNER, DAVID N	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/539,414	<b>Applicant(s)</b> KAMARIOTIS, OTHON
	<b>Examiner</b> DAVID N. WERNER	<b>Art Unit</b> 2483

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 December 2010.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-9 and 14-21 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-9 and 14-21 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 18 February 2010 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Factual Drawing Review (PTO-946)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No./Mail Date 20101207
- 4) Interview Summary (PTO-413)  
 Paper No./Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

**DETAILED ACTION**

1. The Art Unit location of your application in the U.S.P.T.O. has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2483.
2. This Office action for U.S. Patent Application No. 10/539,414 is responsive to the Request for Continued Examination filed 7 December 2010, in reply to the Final Rejection of 7 June 2010. Claims 1–9 and 14–21 are pending.
3. In the Final Rejection, the specification was objected to as having a non-descriptive title. Claim 1 was objected to for a typographical error. Claims 1–9 were rejected under 35 U.S.C. § 101 as non-statutory. Claims 1–9 and 14–21 were rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent Application Publication No. 2002/0092029 A1 (“Smith”) in view of U.S. Patent Application Publication No. 2003/0027566 A1 (“Weiner”).

***Continued Examination Under 37 C.F.R. § 1.114***

4. A request for continued examination under 37 C.F.R. § 1.114, including the fee set forth in 37 C.F.R. § 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 C.F.R. § 1.114, and the fee set forth in 37 C.F.R. § 1.17(e) has been timely paid, the finality of the

previous Office action has been withdrawn pursuant to 37 C.F.R. § 1.114. Applicant's submission filed on 7 December 2010 has been entered.

***Response to Amendment***

5. Applicant's amendments to the specification have been fully considered. The objection to the specification is withdrawn.
6. Applicant's amendments to the claims have been fully considered. The objection to Claim 1 is withdrawn.
7. Applicant's amendments to the claims have been fully considered. The rejections under 35 U.S.C. § 101 are withdrawn.

***Response to Arguments***

8. Applicant's arguments filed with respect to the Weiner reference have been fully considered but they are not persuasive. Applicant argues first, that in the Weiner reference, the zoom function is directed to still images alone, not video images as in the present invention, and second, that the combination of the prior art references is based on improper hindsight.

Regarding the argument that the Weiner reference is directed to zooming only still images, not video images, the examiner respectfully disagrees as an issue of fact. Paragraph 0045 of the Weiner reference speaks for itself: a user initiates a "data session by requesting a picture or video", and can further request "the data to

be zoomed" if it cannot be displayed on a mobile handset at its native resolution. While there is some ambiguity in Paragraph 0045 over the use of "picture", a digital video sequence is not comprised of continuous motion, but as Applicant acknowledges in page 12 of the arguments, a series of still frames, or pictures. Any zoom of video inherently zooms one or more of the individual pictures that comprise the video sequence.

Next, regarding the argument that the combination was made based on improper hindsight, while examiners must not "fall[ ] prey to hindsight bias", KSR Int'l Co. v. Teleflex Inc., 550 U.S. 398, 421 (2007), not all hindsight is "undue", as Applicant calls it. "Common sense teaches...that familiar items may have obvious uses beyond their primary purposes, and in many cases a person of ordinary skill will be able to fit the teachings of multiple patents together like pieces of a puzzle". Id. at 420. "Rigid preventative rules that deny fact finders recourse to common sense...are neither necessary under...case law nor consistent with it". Id. at 421. See also In Re McLaughlin, 443 F.2d 1392, 1395, 170 U.S.P.Q. 209, 212 (C.C.P.A. 1971) (*holding* that since "[a]ny judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning", a combination that "takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made and does not include knowledge gleaned only from applicant's disclosure" is "proper").

Considering the above, the prior art rejections are maintained.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1–9 and 14–21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0092029 A1 (“Smith”) in view of U.S. Patent Application Publication No. 2003/0027566 A1 (“Weiner”). Smith teaches a system for transmitting images from a server to a portable device, or the claimed “client”. Regarding Claim 1, in Smith, a server stores an image at original size. Smith, ¶ 0013. This is the claimed step of storing an original video frame of size  $m \times n$  pixels. The server crops the image to fit the shape of the client mobile device's display and downscales it for appropriate display on transmittal to the mobile device. Id. This is the claimed step of compressing the  $m \times n$  frame to a substantially smaller  $p \times q$  size frame and transmitting it. On receiving the transmitted downscaled picture, a user may select an area of the picture for zooming. Id. at ¶ 0015. The selected area is the claimed preferred location within the  $m \times n$  frame of the selected viewing area. The processing for zooming does not occur in the device, but rather, dynamically over the network,

allowing the server to do the processing, similar to an online map service. Id. at ¶ 0017.

The present invention differs from Smith in that in the present invention, the selection for a preferred viewing area is continued for subsequent frames within a video sequence. Smith, in contrast, discloses presenting multiple frames, such as thumbnails (¶ 0019), but these are distinct still images that may not be part of a unitary video sequence.

Weiner discloses a multimedia content delivery system to a mobile phone. Regarding Claim 1, in Weiner, mobile handset 10 contains a screen having a set size and resolution. Weiner, ¶ 0045. If the server 20 attempts to transmit an image, including a "picture" image or a "video" image to the handset, the user of the handset may ask for the image to be zoomed. Id. Upon receiving this request, the server zooms the image, incorporating "video" images. Id.

Smith discloses the claimed invention except for retaining a user-selected zoom level for video. Weiner discloses that it was known to perform a process similar to the still-picture zoom over a client/server system in Smith for "data" or "pictures" generic to video images and still images. In this case, the Smith still image system is considered a base device in which the claimed video system may be seen as an improvement. The Weiner system that is operable both on still and video images is considered a comparable device not the same as the base device that has been improved in the same way as the present invention: the achievement of

operability of the zoom processing on video images. Therefore, since one of ordinary skill in the art at the time of the invention could have applied the known improved technique in the same way to the base system to achieve the predictable result of imparting the additional utility of being able to process a zoom request for images in a video sequence interactively over a network, the claimed subject matter is considered obvious over the prior art. Ruiz v. AB Chance Co., 357 F.3d 1270, 1277 (Fed. Cir. 2004), In re Nilssen, 851 F.2d 1401, 1403 (Fed. Cir. 1988).

Regarding Claim 2, figure 3 of Smith shows the relationship 33 between the original image and the zoomed image. Smith, ¶ 0015. This is the claimed “zoom level”.

Regarding Claim 3, in Smith, a cursor may be used in the mobile device to select a center point for zooming. Smith, ¶ 0015. This is the claimed pixel-by-pixel selection of a position.

Regarding Claim 4, in Smith, scrolling through the thumbnails (¶ 0020) is the claimed movement of frames at the frame level.

Regarding Claims 5 and 6, in Smith, a predictive algorithm is used to determine what areas a user may wish to view in an image, and begins transmitting data in these areas prior to transmitting other data. Smith, ¶ 0018. These areas of high probability are the claimed plurality of frame sizes of Claim 6, detected automatically as in Claim 5.

Regarding Claim 7, figure 2 of Smith illustrates the claimed process of moving to new positions in the frame and changing frame sizes, here, three progressive zooms each having a different center.

Regarding Claim 8, in figure 2 of Smith, the selection of different frame areas according to cursor position (¶ 0015) is the claimed selection via a jump function that selects frame areas depending on pointer position.

Regarding Claim 9, in Smith, a “pan” function (¶¶ 0017, 0018) is the claimed pixel-by-pixel scrolling function.

Regarding Claim 14, in Smith, the remote server that stores images (¶ 0013) is the claimed server having access to a plurality of video stores. Since the server crops and rescales pictures for transmission to the mobile device (Id.), when modified to operate of video data in addition to or instead of still image data as in Weiner, the server is considered to comprise the claimed compression means. The screen on the mobile device in Smith is the claimed screen in the client device capable of displaying a small p x q image. The user interface in the mobile device (¶ 0017) produces the claimed “data signals” that determined preferred locations in frames, including video frames as in ¶ 0045 of Weiner.

Regarding Claim 15, in Smith, the area determined by the auto-pan function to have a high probability of interest (¶ 0018) is the claimed “selected area” at a certain position at which the user indicated interest. Regarding the claimed

additional limitation of the "camera" in the server, it is noted that a server including a camera capturing live video was known at the time of the invention. See "The Life and Times of the First Web Cam: When Convenience was the Mother of Invention", 44 Comm. of the ACM no. 7 pp. 25–26 (July 2001).

Regarding Claims 16 and 17, ¶ 0022 describes an environment in which the Smith image transmission system may be used with a plurality of stored images that may be transmitted to a plurality of users.

Regarding Claim 18, in Smith, the four thumbnails visible at once and available for selection comprise the claimed "plurality of frames" simultaneously available to switch means.

Regarding Claim 19, Smith preferably operates on JPEG images. Smith, ¶ 0021. This is an example of the claimed "codec".

Regarding Claim 20, in Smith, a user selects a single image for a full view from a series of thumbnails for transmission. Smith, ¶ 0020. Then, sending the image as requested by the user is the claimed transmission of a selected bitstream responsive to customer data input.

Regarding Claim 21, figure 2 of Smith illustrates a process of a user selecting a part of the original image for detailed viewing and receiving a zoomed-in view of the desired area from the server in response.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID N. WERNER whose telephone number is (571)272-9662. The examiner can normally be reached on Monday-Saturday from 10:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph G. Ustaris can be reached on (571) 272-7383. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. N. W./  
Examiner, Art Unit 2483

/Dave Czekaj/

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